

## PATENT COOPERATION TREATY

From the  
INTERNATIONAL PRELIMINARY EXAMINING AUTHORITY

To:  
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FORT COLLINS, CO 80524

PCT

WRITTEN OPINION

(PCT Rule 66)

Applicant's or agent's file reference		Date of Mailing (day/month/year)	23 SEP 2004
VMAFRIPCT		REPLY DUE	within 1 months/days from the above date of mailing
International application No.	International filing date (day/month/year)	Priority date (day/month/year)	
PCT/US03/39472	10 December 2003 (10.12.2003)	10 December 2002 (10.12.2002)	
International Patent Classification (IPC) or both national classification and IPC			
IPC(7): A61K 7/00 and US Cl.: 424/401			
Applicant			
VENTURE MANAGEMENT ALLIANCE, LLC			

- This written opinion is the first (first, etc.) drawn by this International Preliminary Examining Authority.
- This opinion contains indications relating to the following items:

- I ☒ Basis of the opinion
- II ☐ Priority
- III ☐ Non-establishment of opinion with regard to novelty, inventive step and industrial applicability
- IV ☐ Lack of unity of invention
- V ☒ Reasoned statement under Rule 66.2 (a)(ii) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement
- VI ☐ Certain documents cited
- VII ☐ Certain defects in the international application
- VIII ☐ Certain observations on the international application

- The applicant is hereby invited to reply to this opinion.

**When?** See the time limit indicated above. ~~The applicant may, before the expiration of that time limit, request this Authority to grant an extension. See rule 66.2(d).~~

**How?** By submitting a written reply, accompanied, where appropriate, by amendments, according to Rule 66.3. For the form and the language of the amendments, see Rules 66.8 and 66.9.

**Also** For an additional opportunity to submit amendments, see Rule 66.4.  
For the examiner's obligation to consider amendments and/or arguments, see Rule 66.4 bis.  
For an informal communication with the examiner, see Rule 66.6

If no reply is filed, the international preliminary examination report will be established on the basis of this opinion.

- The final date by which the international preliminary examination report must be established according to Rule 69.2 is: 10 April 2005 (10.04.2005).

Name and mailing address of the IPEA/US Mail Stop PCT, Attn: IPEA/US Commissioner for Patents P.O. Box 1450 Alexandria, Virginia 22313-1450 Facsimile No. (703) 305-3230	Authorized officer <i>Valerie Bell-Hamilton</i> BLESSING FUBARA Telephone No. (571) 272-1600
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**I. Basis of the opinion**

1. With regard to the elements of the international application:\*

- ☒ the international application as originally filed
- ☒ the description:  
 pages 1-27, as originally filed  
 pages NONE, filed with the demand  
 pages NONE, filed with the letter of \_\_\_\_\_
- ☒ the claims:  
 pages 28-35, as originally filed  
 pages NONE, as amended (together with any statement) under Article 19  
 pages NONE, filed with the demand  
 pages NONE, filed with the letter of \_\_\_\_\_
- ☒ the drawings:  
 pages 1-6, as originally filed  
 pages NONE, filed with the demand  
 pages NONE, filed with the letter of \_\_\_\_\_
- ☐ the sequence listing part of the description:  
 pages NONE, as originally filed  
 pages NONE, filed with the demand  
 pages NONE, filed with the letter of \_\_\_\_\_

2. With regard to the **language**, all the elements marked above were available or furnished to this Authority in the language in which the international application was filed, unless otherwise indicated under this item.  
 These elements were available or furnished to this Authority in the following language \_\_\_\_\_ which is:

- ☐ the language of a translation furnished for the purposes of international search (under Rule 23.1(b)).
- ☐ the language of publication of the international application (under Rule 48.3(b)).
- ☐ the language of the translation furnished for the purposes of international preliminary examination (under Rules 55.2 and/or 55.3).

3. With regard to any **nucleotide and/or amino acid sequence** disclosed in the international application, the written opinion was drawn on the basis of the sequence listing:

- ☐ contained in the international application in printed form.
- ☐ filed together with the international application in computer readable form.
- ☐ furnished subsequently to this Authority in written form.
- ☐ furnished subsequently to this Authority in computer readable form.
- ☐ The statement that the subsequently furnished written sequence listing does not go beyond the disclosure in the international application as filed has been furnished.
- ☐ The statement that the information recorded in computer readable form is identical to the written sequence listing has been furnished.

4. ☐ The amendments have resulted in the cancellation of:

- ☐ the description, pages NONE \_\_\_\_\_
- ☐ the claims, Nos. NONE \_\_\_\_\_
- ☐ the drawings, sheets/fig NONE \_\_\_\_\_

5. ☐ This opinion has been drawn as if (some of) the amendments had not been made, since they have been considered to go beyond the disclosure as filed, as indicated in the Supplemental Box (Rule 70.2(c)).

\* Replacement sheets which have been furnished to the receiving Office in response to an invitation under Article 14 are referred to in this opinion as "originally filed."

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**V. Reasoned statement under Rule 66.2(a)(ii) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement**

**1. STATEMENT**

Novelty (N)	Claims <u>4-15, 18-30, 32-55 and 58-62</u>	YES
	Claims <u>1-3, 16, 17, 31, 56 and 57</u>	NO
Inventive Step (IS)	Claims <u>4-15, 18-30, 32-55 and 58-62</u>	YES
	Claims <u>1-3, 16, 17, 31, 56 and 57</u>	NO
Industrial Applicability (IA)	Claims <u>1-62</u>	YES
	Claims <u>NONE</u>	NO

**2. CITATIONS AND EXPLANATIONS**

Claims 1-3, 16, 17, 31, 56 and 57 lack novelty under PCT Article 33(2) as being anticipated by PAHLCK et al (US 5,320,835).

Claims 1-3, 16, 17, 31, 56 and 57 lack an inventive step under PCT Article 33(3) as being obvious over PAHLCK et al (US 5,320,835).

PAHLCK discloses cosmetic formulation that contains rupturable microcapsules having cores that comprise dyed solid particles and the solid particles are dispersed in hydrophobic carrier (abstract and examples I-XVIII).

Claims 4-15, 18-30, 32-55 and 58-62 meet the criteria set out in PCT Article 33(2)-(3), because the prior art does not teach or fairly suggest a composition comprising a carrier, capsules, sensorial indicia and a mixture of phenolphthalein, nonyl phenol polyoxyethylene ethanol, tridecyl polyoxyethylene ethanol and polyethylene glycol.

Claims 1-62 meet the criteria set out in PCT Article 33(4), and thus have industrial applicability because the subject matter claimed have industrial application in the cleansing art and can be made or used in industry.

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**Supplemental Box**

(To be used when the space in any of the preceding boxes is not sufficient)

**TIME LIMIT:**

The time limit set for response to a Written Opinion may not be extended. 37 CFR 1.484(d). Any response received after the expiration of the time limit set in the Written Opinion will not be considered in preparing the International Preliminary Examination Report.

10/540716

JUN 9 Rec'd PCT/PTO 10 JUN 2005

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UNITED STATES PATENT AND TRADEMARK OFFICE

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Title: Encapsulated Material Released To Generate Perceivable Sensorial  
Indicia Of Discrete Event Occurrence

Inventor: John E. Walls, Jeffrey W. Putt, Kenneth E. DeLine

International Application No.: PCT/US03/39472

International Filing Date: December 10, 2003

Group Art Unit:

Examiner Name:

Attorney Docket Number: VMAFriUSNP

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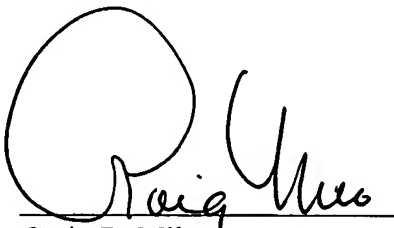
CERTIFICATE OF EXPRESS MAILING

I, Craig R. Miles, hereby certify to the truth of the following items:

1. I am an employee of CR MILES, P.C., 1 Old Town Square, Suite 200 B, Fort Collins, CO 80524.
2. I have this day deposited the attached copy of the Written Opinion (4 page(s)) with the United States Postal Service as "Express Mail" for mailing to:

Mail Stop PCT  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Dated this 10 day of June, 2005

  
Craig R. Miles